IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3267 OF 2005

Bomi Jal Mistry & Ors. ..Petitioners.

Versus

Joint Charity Commissioner of Mumbai

and Ors. ..Respondents.

Mr.S.G.Anney with Mrs.Uma Wagle for the Petitioners.

Mr. Nadar Modi with N.V. Mulla i/by M/s. Mulla & Mulla for Respondents Nos. 2,3,4 and 7.

Mr V.A.Thorat with Pankaj Sawant i/by D.H. Petit & Co. for Respondent No.5.

CORAM : S. A. BOBDE, J .

DATED : 01ST JULY, 2005.

P.C.:

1. Rule. Rule made returnable forthwith. Mr. Nadar Modi waives notice for Respondents 2,3,4 & 7 and Mr. V.A.Thorat for Respondent No.5. Heard by consent.

2. This petition is directed against the ad-interim order of the trial court, refusing to grant ad-interim relief to the petitioners/ plaintiffs.

3. The learned counsel for the respondents states and this is not disputed by the learned counsel for the petitioner, that the pleadings in the notice of motion, in which the impugned ad-interim order is passed are virtually complete except rejoinder which may be filed by the petitioners on the next date with an advance copy to the Respondents. The petitioner may file rejoinder. The respondents can file affidavit in reply as may be advised. The motion has been shown on board for hearing on two occasions. In the circumstances, I consider it inappropriate to entertain this writ petition and appropriate to direct the trial court to decide the notice of motion on its own merits uninfluenced by any earlier orders passed by it, within a period of one month from the next date of hearing. The learned counsel appearing for the respective parties state that they will fully co-operate with the trial court and not seek unnecessary adjournments.

4. The parties are directed to communicate this order to the trial court.

5. Petition disposed of in the above terms.

01.07.2005 (S.A.BOBDE,J.)

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